

FIRST REGULAR SESSION

# SENATE BILL NO. 491

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Read 1st time February 12, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1898S.02I

## AN ACT

To amend chapter 105, RSMo, by adding thereto one new section relating to certain legal actions against the state or any of its agencies or political subdivisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 105, RSMo, is amended by adding thereto one new  
2 section, to be known as section 105.056, to read as follows:

**105.056. 1. Where the state, any of its agencies, or any of its  
2 political subdivisions is a party to a legal action based in whole or in  
3 part on claims that a person's civil or constitutional rights have been  
4 or may be violated, the state, its agency, or its political subdivision  
5 shall not enter into any settlement agreement, consent agreement, or  
6 consent order which directs, controls, limits, or otherwise affects the  
7 future conduct of employees of the state, its agency, or its political  
8 subdivision, unless, before the agreement, order or decree is entered  
9 into, the attorney for the state, its agency, or its political subdivision  
10 provides a written opinion to his or her client stating that there is no  
11 foreseeable circumstance in which the agreement, order, or decree  
12 could possibly infringe on any constitutional or civil right of any  
13 employee of the state, or any of its agencies or political subdivisions.**

**14 2. In any legal action described in subsection 1 of this section  
15 where the attorney for the state, its agency, or political subdivision  
16 declines to provide an opinion as described in subsection 1 of this  
17 section, the state, its agency, or its political subdivision may enter into  
18 the settlement agreement, consent order, or consent decree only if:**

**19 (1) The state, its agency, or its political subdivision first notifies  
20 its employees of the terms of the proposed agreement, decree, or order  
21 and of their right to object to any part thereof; and**

22           (2) Such notice is sent in writing or by electronic means and  
23 contains complete information on how and where to advise the state,  
24 its agency, or its political subdivision of an employee's objection; and

25           (3) The notice allows fifteen business days from the day it is  
26 mailed, or ten business days from the date on which it is hand-  
27 delivered or delivered by electronic means, in which the employees  
28 may respond; and

29           (4) The notice advises the employees that they may object only  
30 if they have reason to believe that some provision of the agreement,  
31 order, or decree violates or may violate their civil or constitutional  
32 rights; and

33           (5) The notice advises the employees that one attorney will be  
34 provided to the objecting employees by the state, its agency, or its  
35 political subdivision, and such attorney will represent the interests of  
36 all objecting employees except those who may wish to retain individual  
37 counsel at their own expense.

38           3. In cases where the agency or political subdivision in question  
39 is an educational or higher educational district, institution, or system,  
40 the provisions of this section shall apply to students as well as  
41 employees.

42           4. Upon receipt of objections from one or more employees or  
43 students, the state, its agency, or its political subdivision shall permit  
44 the attorney or other representative of the objecting employees or  
45 students to participate fully in the negotiation of the terms of the  
46 proposed settlement agreement, consent order, or consent decree which  
47 the objecting employees or students allege may violate their civil or  
48 constitutional rights.

49           5. In the event the state, its agency, or its political subdivision  
50 come to an agreement on the terms of the proposed settlement  
51 agreement, consent order, or consent decree, then the state, its agency,  
52 or its political subdivision may enter into the settlement agreement,  
53 consent order, or consent decree as modified to protect the civil or  
54 constitutional rights of the employees or students.

55           6. If the objecting employees or students are unable to reach an  
56 agreement with the state, its agency, or its political subdivision, and  
57 the other parties to the legal proceeding, then the state, its agency, or  
58 its political subdivision shall not enter into such settlement agreement,

59 consent order, or consent decree. In such case, the objecting employees  
60 or students may file a motion to intervene as parties to the legal  
61 proceeding for the purpose of asserting and protecting their civil or  
62 constitutional rights, and the state, its agency, or its political  
63 subdivision shall support such motion. If the legal proceeding is  
64 pending before a court of this state, the court shall allow such  
65 intervention.

66 7. In cases where a defense is being provided to the state, its  
67 agency, or its political subdivision by an insurance company, the  
68 insurance company shall pay the fees and expenses of the attorney  
69 provided by the state, its agency, or its political subdivision as required  
70 under subdivision (5) of subsection 2 of this section.

71 8. All insurance policies issued after the effective date of this  
72 section that provide defense and indemnity to the state, any of its  
73 agencies, or any of its political subdivisions shall provide coverage for  
74 the fees and expenses of attorneys required to be provided to students  
75 or employees under this section.

Bill ✓

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